THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.22817 of 2005

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Dated:24.10.2005

Between:

M. Venkat Prasad, S/o. M. Venkat Das,
R/o. Flat No.104, Swathi Apartments, Opp. Sathyam Theatre,

Ameerpet, Hyderabad 500 016.

..... PETITIONER

AND

The State of A.P., rep. by its Secretary (Mines), Industries &

Commerce (M-II) Department,
Secretariat, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION No.22817 of 2005

ORDER:

The petitioner filed the present writ petition seeking a writ of Mandamus declaring the impugned memo of the Government dated 03.10.2005, confirming the orders of the second respondent dated 13.06.2005, as illegal and contrary to the provisions of the Mines and Minerals (Development & Regulation) Act, 1957, and the A.P.Minor Mineral Concession Rules, 1966 (for short 'the Rules').

In brief, the case of the petitioner is as follows. The petitioner, the fifth respondent herein and one M.D.Zameer filed applications before the Deputy Director of Mines & Geology, Nizamabad, the third respondent herein, for grant of quarry lease for rough stone and road metal over an extent of 4.50 hectares in Survey No.144 of Khajipally Village, Jinnaram Mandal, Medak District. The Assistant Director of Mines & Geology, Medak, forwarded the applications to the Mandal Revenue Officer, Jinnaram, who issued No-Objection certificate. A joint

survey was conducted, in which it was found that the area applied by the applicants is overlapped with the area applied by others. Therefore, an area of 4.50 hectares out of 5 hectares was demarcated, and the proposal was submitted to the Deputy Director, who by orders dated 22.03.2005 granted quarry lease in favour of the petitioner. The fifth respondent filed an appeal under Rule 35 of the Rules before the second respondent. After affording an opportunity of personal hearing on 16.04.2005 and 21.05.2005, the second respondent allowed the appeal of the fifth respondent, set aside the proceedings of the third respondent, and further directed him to examine the issue keeping in view the interests of local entrepreneurs. The petitioner herein, therefore, filed the revision petition under Rule 35-A of the Rules before the first respondent, who by its order in memo dated 03.10.2005 dismissed the revision application. In this writ petition, the said order is assailed.

The learned counsel for the petitioner, Sri Pannala Srinivas, submits that the impugned order of the first respondent is illegal, and respondent Nos.1 and 2 have violated the Rules of priority of applications. He would further contend that respondent Nos.1 and 2 proceeded on mere surmises without there being any material, and therefore, the impugned order is unsustainable.

A perusal of the proceedings of the second respondent would show that the appellate authority came to the conclusion that respondent Nos.3 and 4 failed to examine all aspects of the matter, and allowed the appeal of the fifth respondent, holding that i) the fourth respondent did not follow the procedure for processing the applications properly; ii) the petitioner herein was holding a lease in the name of his wife Smt.Swapna and filed three applications for the area, and iii) the third respondent did not give an opportunity to the fifth respondent before passing orders, rejecting the application. The revisional authority on consideration of the record and hearing the parties, came to the conclusion that the petitioner was having a quarry lease in Survey No.144 of Khajipally Village and a quarry lease in the name of his wife Smt. Swapna, whereas the fifth respondent does not own a single quarry lease anywhere. The first respondent also came to the conclusion that the petitioner and his family were having quarry leases, enjoying monopoly and blocking all quarry lease areas, is undesirable from the point of view of livelihood of small local entrepreneur. It was also found that the petitioner herein was not having any crusher, and therefore, grant of lease for large extent of area is not justified.

The appellate authority as well as the revisional authority have recorded findings of fact based on the record. The petitioner does not deny or dispute that his wife was already granted quarry lease, and that he already filed other three applications for quarry lease for rough stone and road metal. The petitioner also does not dispute that he is not having any stone crusher. In view of this, if the appellate authority or revisional authority drew appropriate inference that the petitioner is blocking the quarries with a view to monopoly and such blocking is not in the interest of small entrepreneur, the same cannot be treated as arbitrary or illegal. The learned Counsel for the petitioner does not dispute that no person has a right to compel the competent authority to grant quarry lease to him/her, and that while considering the applications of various persons for quarry lease in respect of same area, the competent authority has to exercise sound discretion. In this case,

the appellate authority and the revisional authority found fault with the way the third respondent exercised discretion while granting lease to the petitioner for the reasons which are already referred to hereinabove. Therefore, no interference is called for, especially when the appellate authority and the revisional authority have appreciated the facts and applied the correct principles of law.

The Writ Petition is therefore, dismissed. No costs.

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(V.V.S.RAO, J)

24.10.2005

vs

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